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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Associazione Comunita Papa Giovanni XXIII, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 August 2017]

* The written statement is issued, unedited, in the language received from the submitting non-governmental organization(s).

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The implementation of the Right to Development is urgent!

Associazione Comunità Papa Giovanni XXIII (APG23) takes note of the Consolidated report of the Secretary General and High Commissioner for Human Rights and the report of the Open Ended Working Group on Right to Development (OEIWG), delivered at the 36th regular session of the Human Rights Council.

APG23 participated in the 18th session of the OEIWG on Right to Development that was held in Geneva from the 3 to 7 April 2017 and intervened on the different items of the agenda on behalf of the working group on the right to development of the Geneva Forum of Catholic-Inspired Non-Governmental Organizations12.

As the report3 clearly stated, APG23 expressed its disappointment at the end of the 18th OEIWG session for the lack of progress made on two important items of the agenda: the set of standards and the finalisation of the criteria and operational sub-criteria for the implementation of the right to development.
Once more, Member States were trapped in the usual power game and politicization; polarisation and ideological divides prevailed over the concern for the people, especially the most vulnerable for which the implementation of the right to development is paramount and urgent. APG23 regrets the fact that the United States of America withdrew from being engaged in the Open Ended Intergovernmental Working Group.

APG23 wishes to commend Ambassador Zamir Akram, the Chairperson of the Working Group, for his efforts in leading a very difficult session and pay tribute to the OHCHR Right to Development section for its work as secretariat of the working group and its contribution in mainstreaming the right to development.

As Ms Flavia Piovesan4, one of the invited Experts, said during the last session of the OEIWG, "in an increasingly complex arena, it is crucial to advance in the affirmation of the right to development and global justice in the social, economic and political fields; to compose a new architecture able to respond to the challenges of the current agenda, of the new power dynamics in the international sphere and in a growing landscape of shared responsibilities".

The right to development, declared by a vote at the UN General Assembly in 1986 but reaffirmed by consensus in the Vienna declaration and Programme of Action as well as in many other international instruments5 such as the 2030 Sustainable Development Agenda, is a dynamic and living instrument capable of addressing the contemporary

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1 AHRC/36/35 paragraph 30

2 The members of the working group on the right to development of the Geneva Forum of Catholic-Inspired Non-Governmental Organizations include Associazione Comunità Papa Giovanni XXIII, Association Points-Coeur, Caritas Internationalis, the Company of the Daughters of Charity of Saint Vincent de Paul, Dominicans for Justice and Peace, the Salesian Sisters of St. John Bosco — Daughters of Mary Help of Christians, the International Organization for the Right to Education and Freedom of Education, the International Movement of Apostolate in the Independent Social Milieus (MIAMSI), New Humanity, the Teresian Association and VIDES International — the International Volunteerism Organization for Women, Education, Development.

3 AHRC/36/35 paragraph 72

4 Special Secretary for Human Rights, Ministry of Human Rights, Brazil

5 United Nations Millennium Declaration, Resolution 55/2 adopted by the General Assembly in September 20005; Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in Vienna on 25 June 19935; Rio Declaration on Environment and Development, 1992; Programme of Action for the Least Developed Countries for the Decade 2001-2010; Monterrey Consensus, Mexico 20025;
Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014–2024; Doha Declaration on Financing for Development: Outcome Document of the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus, 20085; Addis Ababa Action Agenda - International Conference on Financing for Development, July 20155; A/RES/70/1; Transforming our world: the 2030 Agenda for Sustainable Development.

challenge of advancing global democracy and global justice based on international cooperation, solidarity and the creativity and participation of civil society.

Indeed, the right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations6. Its implementation must be integral to operationalizing the 2030 Agenda and SDGs, the Addis Ababa Action Agenda on Financing for Development, the Paris Agreement on climate change and the Sendai Framework for Disaster Risk Reduction 2015-2030. Trade, investment, finance, aid, debt, technology, intellectual property and other such global arrangements must be addressed through the Right To Development's normative framework, to create an enabling international environment for development.

In our advocacy on the right to development, we keep in our mind and heart, among others, the 1.6 billion people living in multidimensional poverty7, the 793 million people still undernourished globally, the 663 million people lac' ing access to clean water, the 2.4 billion that do not have adequate sanitation, the millions of refugees and migrants that leave their country in search of safety and a better and more dignified life, facing the risk of dying on the sea and/or falling victims of human traffickers and smugglers.

A myriad of people in the world, especially in the least developed countries, are still denied their right to food, to health and access to medicines, to education, to decent housing, to decent work etc., while a handful of persons has the majority of wealth in our world.

Even in developed countries, inequities are increasing and the gap between rich and poor is enlarging with more and more middle class families falling under the line of poverty. This is profoundly unjust.

As Pope Francis says in the Apostolic Exhortation "Evangelii Gaudium" at paragraph 202: "The need to resolve the structural causes of poverty cannot be delayed, not only for the pragmatic reason of its urgency for the good order of society, but because society needs to be cured of a sickness which is weakening and frustrating it, and which can only lead to new crises. Welfare projects, which meet certain urgent needs, should be considered merely temporary responses. As long as the problems of the poor are not radically resolved by rejecting the absolute autonomy of markets and financial speculation and by attacking the structural causes of inequality,[173] no solution will be found for the world's problems or, for that matter, to any problems. Inequality is the root of social ills".

Given the injustices and also the grave danger it poses to social cohesion and social order, no Member State should play political games and waste time (and resources) in a working group that has the clear mandate first of all "to monitor and review progress made in the promotion and implementation of the right to development as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration8".

In this regard, we appeal to the delegations of the Member States to leave behind their ideological and political divides and engage in a more constructive dialogue on implementation of the right to development.

We welcome the decision of the Human Rights Council in September 2016 to establish a mandate for a Special Rapporteur on the right to development, and we look forward to support the work in that regard of H.E. Saad Alfarargi. We hope that his independent expertise may contribute to overcome the political impasse.

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6 Principle 3, 1992 Rio Declaration on Environment and Development; Article 11,1993 Vienna Declaration and Programme of Action.

7 E/2017/L.29-E/HLPF/2017/L.2

8 Commission on Human Rights resolution 1998/72

Finally, for implementation of the right to development, it is also crucial to identify, exchange and promote best practices both in terms of projects at grass root level and in terms of court cases of justifiability of the right, so as to give them a catalysing effect.

In this regard, APG23 applauds an historic judgment at the African Court of Human and Peoples Rights on 26th May 2017 in Arusha (United Republic of Tanzania) in favour of the Ogiek community of Kenya9. Following an eight-year legal battle, the Court found that the Kenyan government violated seven separate articles of the African Charter including the violation of article 22 that concerns the right to development, in a land rights court case that dates back to colonial times.

This case law is an important addition to the list of the few court cases of justifiability of the right to development already judged by the African Commission of Human and Peoples 'Rights, such as the case of the Ogoni people in Nigeria in 2001, the case of the Democratic Republic of Congo against the Republic of Rwanda, Burundi and Uganda in 2003, the case of 14 individuals who brought the allegation on their behalf and on behalf of the people of Southern Cameroon against the Republic of Cameroon in 2009, the case of the complainants who alleged gross, massive and systematic violations of human rights by the Republic of Sudan against the indigenous Black African tribes in the Darfur region (Western Sudan) in 2009 and, finally, the Endorois'court case in Kenya in 200910.

We are aware that there is need to make the right to development better known by people at grass-root level and multiply programs and projects that respect the right to development and all human rights. Efforts to make right to development justiciable in the different countries should be increased too. In this regard, Civil Society can and should play an important role.

Finally, on the recommendations of the 18th OEIWG on Right to Development, APG23 particularly welcomes the invitation made to the new Special Rapporteur on the Right to Development to provide his views on the work of the working group11.

APG23 also welcomes the fact that the Chair should convene informal consultations with a view to advancing the elaboration of the documents related to the criteria and operational sub-criteria for the implementation of the right to development and the set of standards prior to the nineteenth session of the Working Group12. The Chair promised during the session to involve the civil society in the informal consultations and we look forward for his invitation.

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9 The Ogiek, 35, 000 of whom are the victims in this landmark case, live in the Mau Forest Complex in the Rift Valley of Kenya. They are one of the last remaining forest-dwelling communities and among the most marginalised indigenous peoples in Kenya.

10 55/96: Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria (2001); 227/99 Democratic Republic of Congo / Burundi, Rwanda, Uganda (2003); 266/03 Kevin Mgwanga Gunme et al / Cameroon (2009); 279/03-296/05 : Sudan Human Rights Organisation and Centre on Housing Rights and Evictions (COHRE) / Sudan (2009); 276/03 Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) /Kenya (2009).

11 A/HRC/36/35 paragraph 82 (d)

12 A/HRC/36/35 paragraph 82 (h)